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January 16, 2004

Via Hand Delivery

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

JAN 16 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 96-128

Dear Ms. Dortch:

On January 15, 2004, pursuant to In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act, Fifth Order on Reconsideration and Remand, 17 FCC Rcd 21274, 21293, FN 100, CC Docket No. 96-128 (October 23, 2002) ("Fifth Order"), James U. Troup and Adrian B. Copiz, representing Tel America of Salt Lake City, Inc. ("Tel America"), met with Jon R. Stover, Lynne Milne, and Ana Janckson-Curtis of the Federal Communications Commission ("Commission"). The purpose of the meeting was to seek clarification, as provided for under footnote 100 of the Fifth Order, of the Commission's calculation of the specific per-payphone allocation assigned to Tel America.

Enclosed with this letter is a handout provided to the FCC's staff at the meeting

An original and two copies of this letter are being provided. Acknowledgement and date of receipt of this filing is respectfully requested. A duplicate copy of this letter is provided for this purpose.

Should you have any questions concerning this matter, please contact the undersigned at 202-857-1700.

Sincerely,



James U. Troup
Adrian B. Copiz
Counsel for Tel America of
Salt Lake City, Inc.

Enclosure

Cc Jon Stover
Lynne Milne
Ana Janckson-Curtis

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TEL AMERICA

Payphone Compensation

CC Docket No. 96-128

January 15, 2004

The percentages attributed to Tel America for the interim, intermediate, and post-intermediate periods are inordinately high and statistically without support.

- Tel America
 - Small, regional interexchange carrier
 - Operates in Arizona, California, Nevada, and Utah
 - Total revenue for all long distance services for Tel America was substantially less during the Interim Period, Intermediate Period, and Post-Intermediate Period than the \$100,000,000 threshold initially determined by the FCC as those subject to payphone compensation.
- Similarly sized companies operating in the same markets have substantially lower percentage allocations.
 - Access Long Distance, having approximately the same revenue base and operating in Arizona, Colorado, Nevada, Oregon, Utah, and Washington, was assigned an interim percentage of 0.04489, nearly 1/8th of that assigned to Tel America.
 - CommuniGroup of Jackson, MS, a comparably sized affiliate of Tel America, was assigned an interim percentage of 0.00313, approximately 1/100th of that assigned to Tel America.
 - This chart compares the FCC allocations between Tel America, Access Long Distance, and CommuniGroup of Jackson, MS for the three periods:

	Interim	Intermediate	Post-Intermediate
Tel America	0.32278 %	0.10673 %	0.05267 %
Access L.D.	0.04489 %	0.02554 %	0.00001 %
CommuniGroup	0.00313 %	0.00471 %	0.00360 %

- An analysis of the carriers closely preceding and following Tel America on the Appendices A, B, and C to the *Fifth Order on Reconsideration* are substantially larger than Tel America both geographically and in terms of their respective operations and revenue base.
 - Focusing on Appendix A, the interim period, following are the four carriers immediately preceding Tel America:
 - Cable & Wireless
 - Global Crossing Communications
 - Switched Service Communications
 - U.S. Long Distance

- Also focusing on Appendix A, the interim period, following are some of the carriers listed after Tel America:
 - WorldCom Technologies
 - Qwest
 - Frontier Communications – North Central Region
 - Pac-West Telecom dba AmeriCall
 - Bell Atlantic Communications
- Compounding the problem is that Tel America utilized underlying carriers for originating much of its payphone service, including all originating payphone service outside its service territories, and has separately paid payphone surcharges to that underlying carrier. Tel America has no originating payphone usage within the RBOC service territories other than Nevada Bell, Pac Bell, and Qwest.
- By conservatively reviewing data filed with the FCC for the first quarter of 1997, Tel America calculated that its allocated percentage for the interim period should be no more than 0.08851% or 1/4th of that assigned by the FCC.
 - The calculation was done by reviewing information provided by Qwest, SBC, Ameritech, Bell South, and Bell Atlantic.
 - The only calls attributed to Tel America were in the Nevada Bell, Pac Bell, and Qwest service territories.
 - Tel America had 724,361 calls out of a total of 125,621,769 calls in Arizona, California, Nevada, and Utah.
 - These four states represent 15.35% of the U.S. population and assuming the total number of payphones calls is statistically spread evenly through the U.S., then the 125,621,769 calls would comprise 15.35% of all payphone calls for the first quarter of 1997, making for a total of 818,382,241 payphone calls throughout the U.S.
 - 724,361 is 0.08851% of the 818,382,241 total payphone calls.
- It is likely that the total payphone calls are greatly underestimated based on the 1997 first quarter data.
 - Qwest reported a total of 38,000,000 calls whereas Pac Bell reported a total of 90,000,000 calls.
 - The population in Qwest's service area is greater than the population of California which is served by Pac Bell.
- Based on what Tel America has already been invoiced, it is possible that Tel America will be invoiced amounts that far exceed Tel America's total revenue attributable to payphone services.
 - Tel America received invoices from APCC Services for the interim period averaging about \$90,000 per quarter.
 - APCC Services represents about 10% of the nation's total payphones (approximately 275,000 of an estimated 2,750,000 payphones).
 - Based on those statistics, Tel America's total payphone compensation obligation for the interim period may exceed \$900,000 per quarter.

- \$900,000 per quarter for payphone charges exceeds Tel America's total revenue for calls placed from payphones by a substantial margin. For example, in 1998 Tel America received approximately \$300,000 per quarter in revenue from payphone calls inclusive of payphone surcharges.
- The invoices that Tel America has already received on a "per phone" basis for the Interim Period from APCC Services and other payphone owners, representing only a fraction of the nation's total payphones, average about \$250,000 per quarter, which is almost twice what Tel America paid for "per call" compensation during the first quarter when per call compensation was mandated following the Interim Period.
- The FCC should recalculate Tel America's percentage allocations to ensure that they are accurate and equitable.
- Tel America would like to help the FCC review the statistical basis on what determined the percentages assigned to Tel America.

ATTACHMENT

Excerpts from FCC Allocation Lists

**APPENDIX:
APPENDIX A**

Interim Period Allocation List

Name	Percentage	Amount
AT&T Communications	35.6752385%	\$ 12.56624601
MCI	27.1012154%	\$ 9.54613210
Sprint	11.8235636%	\$ 4.16473205
WorldCom	11.7792597%	\$ 4.14912643
LCI International	2.5385089%	\$ 0.89416436
Frontier Communications Services	2.3634942%	\$ 0.83251720
ILEC 2.19%	2.1900000%	\$ 0.77140560
Cable & Wireless	0.9357654%	\$ 0.32961401
Global Crossing Telecommunications	0.6794139%	\$ 0.23931675
Switched Service Communications	0.5008847%	\$ 0.17643164
U.S. Long Distance	0.4286315%	\$ 0.15098115
Tel America	0.3227813%	\$ 0.11369647
WorldCom Technologies	0.2815205%	\$ 0.09916277
Qwest	0.2801439%	\$ 0.09867788
Long Distance Savers	0.1505964%	\$ 0.05304608
Frontier Communications-North Central Region	0.1446970%	\$ 0.05096805
Pac-West Telecomm dba AmeriCall	0.1425208%	\$ 0.05020151
Frontier Communications Int'l, Inc.	0.1390850%	\$ 0.04899130
Telco Communications Group dba Dial & Save	0.1360130%	\$ 0.04790920
Bell Atlantic Communications	0.1346397%	\$ 0.04742549
Brooks Fiber Communications	0.1134805%	\$ 0.03997236
Business Telecom, Inc. (BTI)	0.1101138%	\$ 0.03878650
NETECH Comm. (US West)	0.0989391%	\$ 0.03485029
One Call Communications	0.0986707%	\$ 0.03475578
ATX Telecommunications Services	0.0941000%	\$ 0.03314579
McLeodUSA	0.0938146%	\$ 0.03304526
WorldXChange	0.0844956%	\$ 0.02976272
American Network Exchange (AMNEX)	0.0666730%	\$ 0.02348490
Broadwing Communications Services Inc.	0.0551409%	\$ 0.01942282
American Telco	0.0534454%	\$ 0.01882561
WesTel	0.0517618%	\$ 0.01823259
West Coast Telecommunications	0.0513034%	\$ 0.01807112
OCI	0.0503072%	\$ 0.01772023
Access Long Distance	0.0448941%	\$ 0.01581348
Total-Tel USA	0.0442117%	\$ 0.01557311
GST Call America	0.0429595%	\$ 0.01513205
NYNEX - Corridor	0.0404028%	\$ 0.01423148
US Long Distance	0.0384286%	\$ 0.01353608

Cincinnati Bell Telephone	0.0000001%	\$ 0.00000004
World Access Communications Corp.(WACC)	0.0000001%	\$ 0.00000004
BELL SOUTH BUSINESS SYSTEMS	0.0000001%	\$ 0.00000004
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APPENDIX B

Intermediate Period Allocation List

Names	Percentages	Amounts
AT&T Communications	35.24391644%	\$ 12.41431713
MCI	23.61161155%	\$ 8.31695405
WorldCom	12.96694860%	\$ 4.56747797
Sprint	12.51899810%	\$ 4.40969189
Frontier Communications Services	3.92149599%	\$ 1.38130775
LCI International	2.37673530%	\$ 0.83718124
ILEC 2.19%	2.19000001%	\$ 0.77140560
Cable & Wireless	0.97917273%	\$ 0.34490380
Switched Service Communications	0.49097550%	\$ 0.17294121
Global Crossing Telecommunications	0.42983911%	\$ 0.15140653
U.S. Long Distance	0.42561847%	\$ 0.14991985
LCI	0.33335911%	\$ 0.11742241
Telco Communications Group dba Dial & Save	0.31307165%	\$ 0.11027636
PT-1 Communications	0.25384298%	\$ 0.08941365
Business Telecom, Inc. (BTI)	0.23496687%	\$ 0.08276473
Long Distance Savers	0.21586112%	\$ 0.07603492
Qwest	0.20372964%	\$ 0.07176173
IXC Communication Services	0.19060904%	\$ 0.06714013
Teltrust	0.18761125%	\$ 0.06608419
One Call Communications	0.14547001%	\$ 0.05124036
EconoPhone	0.14188411%	\$ 0.04997726
ATX Telecommunications Services	0.12896413%	\$ 0.04542633
WorldXChange	0.10813630%	\$ 0.03808993
Tel America	0.10673413%	\$ 0.03759603
American Network Exchange (AMNEX)	0.10326189%	\$ 0.03637297
Bell Atlantic Communications	0.09986097%	\$ 0.03517503
American Telco	0.08260508%	\$ 0.02909681
US Long Distance	0.08048481%	\$ 0.02834997
Total-Tel USA	0.07600848%	\$ 0.02677323
Cincinnati Bell Long Distance	0.06237390%	\$ 0.02197058
WesTel	0.06191358%	\$ 0.02180844
DeltaCom L.D.S.	0.06105990%	\$ 0.02150774
Consolidated Network	0.05901859%	\$ 0.02078871
OCI	0.05889480%	\$ 0.02074511

TELEFONICA LARGA DISTANCIA	0.00000004%	\$ 0.00000001
TLD DE PUERTO RICO	0.00000004%	\$ 0.00000001
TransWorld Network Corp.	0.00000004%	\$ 0.00000001
U.S.Fiberline Communications	0.00000004%	\$ 0.00000001
WBC Communications, Inc.	0.00000004%	\$ 0.00000001
WORLD-WIDE TELCO	0.00000004%	\$ 0.00000001
American Communications Technology	0.00000004%	\$ 0.00000001
Western Telephone & Television	0.00000004%	\$ 0.00000001
Cimco Communications	0.00000004%	\$ 0.00000001
Cellular XL Associates	0.00000004%	\$ 0.00000001
CityNet Communications	0.00000004%	\$ 0.00000001
Future Telephone Communications	0.00000004%	\$ 0.00000001
Network Technologies	0.00000004%	\$ 0.00000001
Voyager Networks	0.00000004%	\$ 0.00000001
DIGITRAN CORP.	0.00000004%	\$ 0.00000001
CP-Tel Network Services, Inc.	0.00000004%	\$ 0.00000001
CommNet Cellular	0.00000004%	\$ 0.00000001
Carrier Concepts International Corp.	0.00000004%	\$ 0.00000001
Intelenet Commission	0.00000004%	\$ 0.00000001
METRO TELEPHONE	0.00000004%	\$ 0.00000001
U.S. TELE-COMM, INC.	0.00000004%	\$ 0.00000001
Citizens Long Distance	0.00000004%	\$ 0.00000001
TLD, Inc.	0.00000004%	\$ 0.00000001
Ameritech Communications	0.00000004%	\$ 0.00000001
BizTel Long Distance Telephone Co.	0.00000004%	\$ 0.00000001
Redwood Long Distance	0.00000004%	\$ 0.00000001
Contact America	0.00000004%	\$ 0.00000001
MID MCND dba MIDCOM Communications	0.00000004%	\$ 0.00000001
Off Campus Communications	0.00000004%	\$ 0.00000001
Consolidated Comm. Public Services	0.00000004%	\$ 0.00000001
Beehive Telephone Co.	0.00000004%	\$ 0.00000001
Hawaiian Telephone Co. (GTE)	0.00000004%	\$ 0.00000001
Tel Serve	0.00000004%	\$ 0.00000001
Ray-Tel, Inc.	0.00000004%	\$ 0.00000001
[**132]		

APPENDIX C

Post-Intermediate Period Allocation List

Name	Percentage	Amount
AT&T Communications	33.69552735%	\$ 11.96865132
MCI	17.02639727%	\$ 6.04777631
Sprint	11.11485111%	\$ 3.94799511

WorldCom	10.23852165%	\$ 3.63672289
Global Crossing Telecommunications	7.15106942%	\$ 2.54005986
Qwest	7.12891379%	\$ 2.53219018
WCOM	3.45572976%	\$ 1.22747521
ILEC 2.19%	2.19000000%	\$ 0.77788800
Cable & Wireless	0.87472581%	\$ 0.31070261
Global Crossing	0.73143840%	\$ 0.25980692
Frontier Communications Services	0.67982311%	\$ 0.24147317
Broadwing Communications Services Inc.	0.60573560%	\$ 0.21515729
Telco Communications Group dba Dial & Save	0.57331218%	\$ 0.20364049
Touch America, Inc.	0.52556846%	\$ 0.18668192
IDT Corp.	0.46487055%	\$ 0.16512202
Business Telecom, Inc. (BTI)	0.41529492%	\$ 0.14751276
LCI International	0.38508503%	\$ 0.13678220
WorldXChange	0.24004960%	\$ 0.08526562
PT-1 Communications	0.19235182%	\$ 0.06832337
McLeodUSA	0.18014775%	\$ 0.06398848
One Call Communications	0.16435648%	\$ 0.05837942
ATX Telecommunications Services	0.16231652%	\$ 0.05765483
Excel Telecommunications	0.11654172%	\$ 0.04139562
DeltaCom L.D.S.	0.11205694%	\$ 0.03980263
Network Plus	0.09200160%	\$ 0.03267897
Long Distance of Michigan (LDMI)	0.09124466%	\$ 0.03241010
EconoPhone	0.08965730%	\$ 0.03184627
Switched Service Communications	0.08282780%	\$ 0.02942043
Intermedia Communications	0.08202164%	\$ 0.02913409
VERIZON (not Verizon IntraLATA - LEC)	0.07539638%	\$ 0.02678080
Total-Tel USA	0.06460627%	\$ 0.02294815
Tel America	0.05266606%	\$ 0.01870698
One Star Long Distance	0.05075153%	\$ 0.01802694
The CommuniGroup Of KC	0.04547681%	\$ 0.01615336
Tandem Access for Database Query	0.04360270%	\$ 0.01548768
American Long Lines	0.04159377%	\$ 0.01477411
Logix Communications	0.04139743%	\$ 0.01470437
Bell Atlantic Communications	0.04136967%	\$ 0.01469451
WesTel	0.03890862%	\$ 0.01382034
NETECH Comm. (US West)	0.03875592%	\$ 0.01376610
US WATS	0.02990079%	\$ 0.01062076
Cooperative Communications	0.02482544%	\$ 0.00881800
Pac-West Telecomm dba AmeriCall	0.02391389%	\$ 0.00849421
Global Crossing Telemanagement	0.02192701%	\$ 0.00778847
Capital Telecommunications	0.02078209%	\$ 0.00738180